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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,186	10/20/2003	Felix L. Sorkin	1101-171	6672
7590		03/06/2007		
John S. Egbert Harrison & Egbert 7th Floor 412 Main Street Houston, TX 77002				
			EXAMINER HORTON, YVONNE MICHELE	
			ART UNIT 3635	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/06/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/688,186

Applicant(s)

SORKIN, FELIX L.

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-40 is/are rejected.
- 7) ☒ Claim(s) 41 and 42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Withdrawal of Allowable Subject Matter***

The indicated allowability of the claims is withdrawn in view of the newly discovered reference(s) to LEONARDIS et al. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,835,933 to YUNG. YUNG discloses a plastic apparatus including a base (20), a support structure extending upwardly from said base (20) having a channel (33) formed in an upper surface thereof and having first (25a); second (27a), and third (26a) legs; wherein the first and second legs (25a, 27) extend at an acute angle with the third leg (26a) positioned therebetween; said channel (33) extending in a direction and having a size suitable for receiving a first rebar (18) therein, a first clamping structure (43) fixed to said support structure on one side of said channel (33), said first clamping structure (43) having an interior suitable for receiving a second rebar (19) therein extending in a direction transverse to the first rebar (18); and a second clamping (44) structure affixed to said support structure on an opposite side of said channel (33), said second clamping structure (43) having an interior surface suitable for receiving the

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second rebar (19) therein, said second clamping structure (43) being in spaced parallel relationship to said first clamping structure (43), each of said first and second clamping structures (44) having a generally C- shaped configuration. Regarding claim 40, the C-shaped clamps (43,44) have arms (40,41) that extend upwardly therefrom and an upper portion (42) in spaced relation from the C-shape.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,835,933 to YUNG in view of US Patent #5,107,654 to LEONARDIS. Regarding claims 36, YUNG discloses a base (20), a support structure extending upwardly from said base (20) having a channel (33) formed in an upper surface thereof and having first (25a), second (27a), and third (26a) legs with gussets (25-27b) formed at a bottom thereof; wherein the first and second legs (25a, 27) extend at an acute angle with the third leg (26a) positioned therebetween; said channel (33) extending in a direction and having a size suitable for receiving a first rebar (18) therein, a first clamping structure (43) fixed to said support structure on one side of said channel (33), said first clamping structure (43) having an interior suitable for receiving a second rebar (19) therein extending in a direction transverse to the first rebar (18); and a second clamping (44) structure affixed to said support structure on an opposite side of said channel (33), said second clamping structure (43) having an interior surface suitable for

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receiving the second rebar (19) therein, said second clamping structure (43) being in spaced parallel relationship to said first clamping structure (43), each of said first and second clamping structures (44) having a generally C- shaped configuration. YUNG discloses the basic claimed support structure except for flaring the ends of the base. LEONARDIS teaches forming a base (2) with a curved bottom (2a) which due to the fact that the curved bottom (2a) forms a portion of a sphere, the ends thereof at element (22) flares upwardly. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the support structure of YUNG with a curved bottom and upwardly flaring ends, as taught by LEONARDIS in order to effectively decrease the amount of water build up thereon and to shed water therefrom. In reference to claim 38, the support structure further includes a plurality of holes (28-30) so as to allow concrete to flow therethrough.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,835,933 to YUNG in view of US Patent #5,107,654 to LEONARDIS as applied to claim 36 above, and further in view of US Patent #5,893,252 to HARDY et al. YUNG, as modified by, LEONARDIS discloses the basic claimed structure except for explicitly detailing the material used to form the structure. Although YUNG discloses that his apparatus is made from plastic, he does not detail what type of plastic. HARDY et al. teaches that it is known in the art to form a support structure out of nylon plastic, column 8, line 24. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the rebar chair of YUNG out of nylon, as taught by HARDY, Jr. et al., in order to form a rebar chair that is sturdy yet capable of

holding up under concrete loads, but that is also flexible enough to firmly hold the rebar member in place.

### ***Allowable Subject Matter***

Claims 31 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

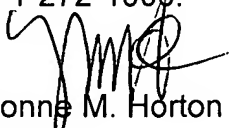
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne M. Horton  
Examiner  
Art Unit 3635

12/18/06